

# House File 722 - Introduced

HOUSE FILE 722  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HF 619)

## A BILL FOR

1 An Act relating to the voluntary or involuntary commitment or  
2 hospitalization of a person with a serious mental impairment  
3 or a substance-related disorder.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 125.33, Code 2019, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 5A. If a patient leaves a facility,  
4 with or against the advice of the administrator in charge of  
5 the facility, the facility shall provide the patient with  
6 a discharge report which shall include the patient's name  
7 and address, all postdischarge appointments scheduled for  
8 the patient, and all information necessary for the patient's  
9 postdischarge care.

10 Sec. 2. Section 125.74, Code 2019, is amended to read as  
11 follows:

12 **125.74 Preapplication screening assessment — program.**

13 Prior to filing an application pursuant to [section 125.75](#),  
14 the clerk of the district court or the clerk's designee shall  
15 inform the interested person referred to in [section 125.75](#)  
16 about the option of requesting a preapplication screening  
17 assessment through a preapplication screening assessment  
18 program, which may include a preapplication screening  
19 assessment delivered through telehealth, if available. The  
20 state court administrator shall prescribe practices and  
21 procedures for implementation of the preapplication screening  
22 assessment program.

23 Sec. 3. Section 125.85, Code 2019, is amended by adding the  
24 following new subsection:

25 NEW SUBSECTION. 3A. Prior to a respondent's discharge from  
26 a facility or from treatment, the administrator of the facility  
27 shall provide a discharge report to the respondent which shall  
28 include the respondent's name and address, all postdischarge  
29 appointments scheduled for the respondent, and all information  
30 necessary for the respondent's postdischarge care.

31 Sec. 4. Section 125.89, subsection 1, Code 2019, is amended  
32 to read as follows:

33 1. If a court orders a respondent placed at a facility  
34 for evaluation and treatment under [section 125.83](#) at a time  
35 when the respondent has been convicted of a public offense,

1 or when there is pending against the respondent an unresolved  
2 formal charge of a public offense, and the respondent's liberty  
3 has therefore been restricted in any manner, the findings of  
4 fact required by [section 125.83](#) shall clearly so inform the  
5 administrator of the facility where the respondent is placed.  
6 The court may order the facility to notify the appropriate law  
7 enforcement agency prior to the discharge or transfer of the  
8 respondent from the facility.

9       Sec. 5. Section 125.91, subsection 2, paragraphs a and b,  
10 Code 2019, are amended to read as follows:

11       a. A peace officer who has reasonable grounds to believe  
12 that the circumstances described in [subsection 1](#) are applicable  
13 may, without a warrant, take or cause that person to be taken  
14 to the nearest available facility referred to in section  
15 125.81, subsection 2, paragraph "b" or "c". Such a person  
16 with a substance-related disorder due to intoxication or  
17 substance-induced incapacitation who also demonstrates a  
18 significant degree of distress or dysfunction may also be  
19 delivered to a facility by someone other than a peace officer  
20 upon a showing of reasonable grounds. Upon delivery of  
21 the person to a facility under [this section](#), the attending  
22 physician and surgeon or osteopathic physician and surgeon  
23 may order treatment of the person, but only to the extent  
24 necessary to preserve the person's life or to appropriately  
25 control the person's behavior if the behavior is likely to  
26 result in physical injury to the person or others if allowed to  
27 continue. The peace officer or other person who delivered the  
28 person to the facility shall describe the circumstances of the  
29 matter to the attending physician and surgeon or osteopathic  
30 physician and surgeon. If the person is a peace officer,  
31 the peace officer may do so either in person or by written  
32 report. If the attending physician and surgeon or osteopathic  
33 physician and surgeon has reasonable grounds to believe that  
34 the circumstances in [subsection 1](#) are applicable, the attending  
35 physician shall at once communicate with the nearest available

1 magistrate as defined in section 801.4, subsection 10. The  
2 magistrate shall, based upon the circumstances described by  
3 the attending physician and surgeon or osteopathic physician  
4 and surgeon, give the attending physician and surgeon or  
5 osteopathic physician and surgeon oral instructions either  
6 directing that the person be released forthwith, or authorizing  
7 the person's detention in an appropriate facility. A peace  
8 officer from the law enforcement agency that took the person  
9 into custody, if available, during the communication with the  
10 magistrate, may inform the magistrate that an arrest warrant  
11 has been issued for or charges are pending against the person  
12 and request that any oral or written order issued under this  
13 subsection require the facility to notify the law enforcement  
14 agency about the discharge or transfer of the person prior to  
15 the discharge or transfer. The magistrate may also give oral  
16 instructions and order that the detained person be transported  
17 to an appropriate facility.

18     **b.** If the magistrate orders that the person be detained, the  
19 magistrate shall, by the close of business on the next working  
20 day, file a written order with the clerk in the county where it  
21 is anticipated that an application may be filed under section  
22 125.75. The order may be filed by facsimile if necessary. A  
23 peace officer from the law enforcement agency that took the  
24 person into custody, if no request was made under paragraph  
25 "a", may inform the magistrate that an arrest warrant has  
26 been issued for or charges are pending against the person and  
27 request that any written order issued under this paragraph  
28 require the facility to notify the law enforcement agency  
29 about the discharge or transfer of the person prior to the  
30 discharge or transfer. The order shall state the circumstances  
31 under which the person was taken into custody or otherwise  
32 brought to a facility and the grounds supporting the finding  
33 of probable cause to believe that the person is a person with a  
34 substance-related disorder likely to result in physical injury  
35 to the person or others if not detained. The order shall also

1 include any law enforcement agency notification requirements if  
2 applicable. The order shall confirm the oral order authorizing  
3 the person's detention including any order given to transport  
4 the person to an appropriate facility. A peace officer from  
5 the law enforcement agency that took the person into custody  
6 may also request an order, separate from the written order,  
7 requiring the facility to notify the law enforcement agency  
8 about the discharge or transfer of the person prior to the  
9 discharge or transfer. The clerk shall provide a copy of that  
10 order to the attending physician and surgeon or osteopathic  
11 physician and surgeon at the facility to which the person was  
12 originally taken, any subsequent facility to which the person  
13 was transported, and to any law enforcement department or  
14 ambulance service that transported the person pursuant to the  
15 magistrate's order.

16 Sec. 6. Section 125.91, subsection 3, Code 2019, is amended  
17 to read as follows:

18 3. The attending physician and surgeon or osteopathic  
19 physician and surgeon shall examine and may detain the person  
20 pursuant to the magistrate's order for a period not to exceed  
21 ~~forty-eight~~ seventy-two hours from the time the order is dated,  
22 excluding Saturdays, Sundays, and holidays, unless the order is  
23 dismissed by a magistrate. The facility may provide treatment  
24 which is necessary to preserve the person's life or to  
25 appropriately control the person's behavior if the behavior is  
26 likely to result in physical injury to the person or others if  
27 allowed to continue or is otherwise deemed medically necessary  
28 by the attending physician and surgeon or osteopathic physician  
29 and surgeon or mental health professional, but shall not  
30 otherwise provide treatment to the person without the person's  
31 consent. The person shall be discharged from the facility and  
32 released from detention no later than the expiration of the  
33 ~~forty-eight-hour~~ seventy-two-hour period, unless an application  
34 for involuntary commitment is filed with the clerk pursuant to  
35 section 125.75. The detention of a person by the procedure

1 in [this section](#), and not in excess of the period of time  
2 prescribed by [this section](#), shall not render the peace officer,  
3 attending physician and surgeon or osteopathic physician and  
4 surgeon, or facility detaining the person liable in a criminal  
5 or civil action for false arrest or false imprisonment if the  
6 peace officer, attending physician and surgeon or osteopathic  
7 physician and surgeon, mental health professional, or facility  
8 had reasonable grounds to believe that the circumstances  
9 described in [subsection 1](#) were applicable.

10 Sec. 7. Section 229.3, Code 2019, is amended to read as  
11 follows:

12 **229.3 Discharge of voluntary patients.**

13 1. Any voluntary patient who has recovered, or whose  
14 hospitalization the chief medical officer of the hospital  
15 determines is no longer advisable, shall be discharged. Any  
16 voluntary patient may be discharged if to do so would in the  
17 judgment of the chief medical officer contribute to the most  
18 effective use of the hospital in the care and treatment of that  
19 patient and of other persons with mental illness.

20 2. If the chief medical officer of the hospital is informed  
21 that an arrest warrant has been issued for or charges are  
22 pending against a voluntary patient of the hospital, the chief  
23 medical officer may notify the appropriate law enforcement  
24 agency about the discharge of the patient prior to the  
25 patient's discharge.

26 Sec. 8. Section 229.5A, Code 2019, is amended to read as  
27 follows:

28 **229.5A Preapplication screening assessment — program.**

29 Prior to filing an application pursuant to [section 229.6](#),  
30 the clerk of the district court or the clerk's designee shall  
31 inform the interested person referred to in [section 229.6](#),  
32 subsection 1, about the option of requesting a preapplication  
33 screening assessment through a preapplication screening  
34 assessment program, which may include a preapplication  
35 screening assessment delivered through telehealth, if

1 available.

2 Sec. 9. Section 229.16, Code 2019, is amended to read as  
3 follows:

4 **229.16 Discharge and termination of proceeding.**

5 1. When the condition of a patient who is hospitalized  
6 pursuant to a report issued under [section 229.14, subsection 1,](#)  
7 paragraph "b", ~~or~~ is receiving treatment pursuant to a report  
8 issued under [section 229.14, subsection 1,](#) paragraph "c", or is  
9 in full-time care and custody pursuant to a report issued under  
10 section 229.14, subsection 1, paragraph "d", is such that in  
11 the opinion of the chief medical officer the patient no longer  
12 requires treatment or care for serious mental impairment, the  
13 chief medical officer shall tentatively discharge the patient  
14 and immediately report that fact to the court which ordered the  
15 patient's hospitalization or care and custody. Upon receiving  
16 the report, the court shall issue an order confirming the  
17 patient's discharge from the hospital or from care and custody,  
18 as the case may be, and shall terminate the proceedings  
19 pursuant to which the order was issued. Copies of the order  
20 shall be sent by regular mail to the hospital, the patient,  
21 and the applicant if the applicant has filed a written waiver  
22 signed by the patient.

23 2. When a patient who is hospitalized pursuant to a report  
24 issued under section 229.14, subsection 1, paragraph "b", is  
25 receiving treatment pursuant to a report issued under section  
26 229.14, subsection 1, paragraph "c", or is in full-time care  
27 and custody pursuant to a report issued under section 229.14,  
28 subsection 1, paragraph "d", is discharged from the hospital  
29 or from care and custody, the patient shall be provided a  
30 discharge report which shall include the patient's name and  
31 address, all postdischarge appointments scheduled for the  
32 patient, and all information necessary for the patient's  
33 postdischarge care.

34 Sec. 10. Section 229.22, subsection 2, paragraph b, Code  
35 2019, is amended to read as follows:

1     *b.* If the magistrate orders that the person be detained,  
2 the magistrate shall, by the close of business on the next  
3 working day, file a written order with the clerk in the county  
4 where it is anticipated that an application may be filed  
5 under [section 229.6](#). The order may be filed by facsimile if  
6 necessary. A peace officer from the law enforcement agency  
7 that took the person into custody, if no request was made  
8 under paragraph "a", may inform the magistrate that an arrest  
9 warrant has been issued for or charges are pending against  
10 the person and request that any written order issued under  
11 this paragraph require the facility or hospital to notify the  
12 law enforcement agency about the discharge or transfer of the  
13 person prior to discharge or transfer. The order shall state  
14 the circumstances under which the person was taken into custody  
15 or otherwise brought to a facility or hospital, and the grounds  
16 supporting the finding of probable cause to believe that the  
17 person is seriously mentally impaired and likely to injure the  
18 person's self or others if not immediately detained. The order  
19 shall also include any law enforcement agency notification  
20 requirements if applicable. The order shall confirm the oral  
21 order authorizing the person's detention including any order  
22 given to transport the person to an appropriate facility or  
23 hospital. A peace officer from the law enforcement agency  
24 that took the person into custody may also request an order,  
25 separate from the written order, requiring the facility  
26 or hospital to notify the law enforcement agency about the  
27 discharge or transfer of the person prior to discharge or  
28 transfer. The clerk shall provide a copy of the written order  
29 or any separate order to the chief medical officer of the  
30 facility or hospital to which the person was originally taken,  
31 to any subsequent facility to which the person was transported,  
32 and to any law enforcement department, ambulance service, or  
33 transportation service under contract with a mental health  
34 and disability services region that transported the person  
35 pursuant to the magistrate's order. A transportation service



1 that contracts with a mental health and disability services  
2 region for purposes of this paragraph shall provide a secure  
3 transportation vehicle and shall employ staff that has received  
4 or is receiving mental health training.

5 Sec. 11. Section 229.22, subsection 2, paragraph c, Code  
6 2019, is amended by adding the following new subparagraphs:

7 NEW SUBPARAGRAPH. (3) Notify the law enforcement agency  
8 that employs the peace officer by telephone prior to the  
9 transfer of the person from the facility or hospital.

10 NEW SUBPARAGRAPH. (4) Notify the law enforcement agency  
11 that employs the peace officer by electronic mail prior to the  
12 transfer of the person from the facility or hospital.

13 Sec. 12. Section 229.22, subsection 3, Code 2019, is amended  
14 to read as follows:

15 3. The chief medical officer of the facility or hospital  
16 shall examine and may detain and care for the person taken  
17 into custody under the magistrate's order for a period not  
18 to exceed ~~forty-eight~~ seventy-two hours from the time such  
19 order is dated, excluding Saturdays, Sundays and holidays,  
20 unless the order is sooner dismissed by a magistrate. The  
21 facility or hospital may provide treatment which is necessary  
22 to preserve the person's life, or to appropriately control  
23 behavior by the person which is likely to result in physical  
24 injury to the person's self or others if allowed to continue,  
25 but may not otherwise provide treatment to the person without  
26 the person's consent. The person shall be discharged from  
27 the facility or hospital and released from custody not later  
28 than the expiration of that period, unless an application is  
29 sooner filed with the clerk pursuant to [section 229.6](#). Prior  
30 to such discharge the facility or hospital shall, if required  
31 by [this section](#), notify the law enforcement agency requesting  
32 such notification about the discharge of the person. The law  
33 enforcement agency shall retrieve the person no later than  
34 six hours after notification from the facility or hospital  
35 but in no circumstances shall the detention of the person

1 exceed the period of time prescribed for detention by this  
2 subsection. The detention of any person by the procedure  
3 and not in excess of the period of time prescribed by this  
4 section shall not render the peace officer, physician, mental  
5 health professional, facility, or hospital so detaining that  
6 person liable in a criminal or civil action for false arrest  
7 or false imprisonment if the peace officer, physician, mental  
8 health professional, facility, or hospital had reasonable  
9 grounds to believe the person so detained was mentally ill and  
10 likely to physically injure the person's self or others if  
11 not immediately detained, or if the facility or hospital was  
12 required to notify a law enforcement agency by [this section](#),  
13 and the law enforcement agency requesting notification prior to  
14 discharge retrieved the person no later than six hours after  
15 the notification, and the detention prior to the retrieval of  
16 the person did not exceed the period of time prescribed for  
17 detention by [this subsection](#).

18     Sec. 13. DEPARTMENTS OF HUMAN SERVICES AND PUBLIC HEALTH  
19 — COMMITMENT PROCESS REVIEW. The department of human  
20 services and the department of public health shall review the  
21 commitment processes under chapters 125 and 229 and shall  
22 make recommendations for combining the commitment processes  
23 into a single chapter. The departments shall consider the  
24 recommendations from the report submitted by the commitment  
25 process review work group to the general assembly on December  
26 31, 2018, when reviewing the commitment processes. The  
27 departments shall submit recommendations including proposed  
28 legislation to the governor and the general assembly by  
29 November 15, 2019.

30     Sec. 14. SUPREME COURT TRAINING — INVOLUNTARY COMMITMENTS  
31 AND HOSPITALIZATIONS OF PERSONS WITH SERIOUS MENTAL IMPAIRMENTS  
32 OR SUBSTANCE-RELATED DISORDERS. The supreme court shall  
33 establish educational training for judges, clerks of court,  
34 and attorneys related to the involuntary commitment of a  
35 person with a serious mental impairment or a substance-related

1 disorder. The supreme court shall develop the training based  
2 on recommendations from the report submitted by the commitment  
3 process review work group to the general assembly on December  
4 31, 2018.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with  
7 the explanation's substance by the members of the general assembly.

8 This bill relates to the commitment or hospitalization of a  
9 person with a serious mental impairment or a substance-related  
10 disorder.

11 POSTDISCHARGE REPORT. The bill provides that a person with  
12 a serious mental impairment or a substance-related disorder who  
13 is discharged from a voluntary or an involuntary commitment or  
14 hospitalization under Code chapter 125 or 229 shall be provided  
15 a discharge report which shall include the patient's name and  
16 address, all scheduled postdischarge appointments, and all  
17 information relevant to the patient's postdischarge care.

18 PREAPPLICATION SCREENING ASSESSMENT. Under current law,  
19 prior to filing an application for involuntary hospitalization  
20 under Code section 229.6 or involuntary commitment under Code  
21 section 125.75, the clerk of the district court or the clerk's  
22 designee shall inform the person filing the application about  
23 the option of requesting a preapplication screening assessment  
24 through a preapplication screening assessment program. The  
25 bill expands current law to provide a preapplication screening  
26 assessment program may include a preapplication screening  
27 assessment delivered through telehealth, if available.

28 EMERGENCY DETENTION AND HOSPITALIZATION — LAW ENFORCEMENT  
29 NOTIFICATION AND DETENTION PERIODS. Under Code sections 125.91  
30 (emergency detention — substance-related disorders) and 229.22  
31 (emergency hospitalization — serious mental impairment), when  
32 it appears that a person should be immediately detained due to  
33 a substance-related disorder or a serious mental impairment  
34 but an involuntary application for hospitalization has not  
35 been filed naming the person as the respondent and the person

1 cannot be ordered into immediate custody and detained, the  
2 person may be immediately detained by a peace officer who  
3 has reasonable grounds for the detention, and the peace  
4 officer, without a warrant, may take or cause that person to  
5 be taken to the nearest available facility or hospital. A  
6 person who is not a peace officer may also bring a person  
7 under similar circumstances to a facility or hospital. If  
8 the appropriate examining health care practitioner finds that  
9 there is reason to believe that the person suffers from a  
10 substance-related disorder or is seriously mentally impaired  
11 and is likely to physically injure the person's self or others  
12 if not immediately detained, the health care practitioner is  
13 required to immediately communicate with the nearest available  
14 magistrate.

15 The bill provides that if a magistrate authorizes a person  
16 with a substance-related disorder, under the circumstances  
17 described in Code section 125.91, to be detained in an  
18 appropriate facility, a peace officer from the law enforcement  
19 agency that took the person into custody may inform the  
20 magistrate that an arrest warrant has been issued for or  
21 charges are pending against the person and request that any  
22 oral or written order issued require the facility or hospital  
23 to notify the law enforcement agency about the discharge  
24 or transfer of the person prior to the person's discharge  
25 or transfer. The bill amends the same law enforcement  
26 notification provisions currently in Code section 229.22 to  
27 allow such law enforcement notification when a person with a  
28 serious mental impairment is transferred from a facility or  
29 hospital.

30 Under current law, a hospital or facility may detain a  
31 person with a substance-related disorder pursuant to Code  
32 section 125.91 or a serious mental impairment pursuant to  
33 Code section 229.22, under a magistrate's order for a period  
34 not to exceed 48 hours from the time such an order is dated,  
35 excluding Saturdays, Sundays, and holidays, unless the order is

1 dismissed earlier by a magistrate. The bill extends the period  
2 a hospital or facility may detain such persons to 72 hours  
3 from the time such an order is dated, excluding Saturdays,  
4 Sundays, and holidays, unless the order is dismissed earlier by  
5 a magistrate.

6 DEPARTMENTS OF HUMAN SERVICES AND PUBLIC HEALTH —  
7 COMMITMENT PROCESS REVIEW. The bill directs the department of  
8 human services and the department of public health to review  
9 the commitment processes under Code chapters 125 and 229 and  
10 make recommendations and propose legislation for combining  
11 the Code chapters to the governor and the general assembly by  
12 November 15, 2019.

13 SUPREME COURT — EDUCATIONAL TRAINING. The bill directs  
14 the supreme court to develop and provide educational training  
15 relating to involuntary commitments and hospitalizations of  
16 persons with serious mental impairments and substance-related  
17 disorders for judges, clerks of court, and attorneys. The bill  
18 provides that the supreme court shall develop the training  
19 based upon recommendations from the December 30, 2018, report  
20 submitted by the commitment process review work group.